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June 13, 1997

BY HAND DELIVERY

Mr. William F. Caton
 Acting Secretary
 Federal Communications Commission
 1919 M Street, N.W., Stop Code - 1170
 Washington, D.C. 20554

**Re: Petition for Reconsideration filed by Capital Television Corporation
 Sixth Report and Order; FCC 97-115; MM Docket No. 87-268**

Dear Mr. Caton:

Transmitted herewith, on behalf of Capital Television Corporation, licensee of Low Power Television Station W44BP, Petersburg, Virginia, are a facsimile of an original and eleven copies of a Petition for Reconsideration to be filed in the above-referenced matter.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

BROOKS, PIERCE, McLENDON,
 HUMPHREY & LEONARD, L.L.P.

Mark J. Prak
 Counsel to Capital Television Corporation

MJP:rb

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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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JUN 13 1997

Federal Communications Commission
 Office of Secretary

In the Matter of)

Advanced Television Systems)
 and Their Impact upon the)
 Existing Television Broadcast)
 Service)

MM Docket No. 87-268

To: The Commission

**PETITION FOR PARTIAL RECONSIDERATION
 OF THE SIXTH REPORT AND ORDER
 SUBMITTED BY CAPITAL TELEVISION CORPORATION**

This Petition for Partial Reconsideration of the Commission's *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*" or "*Allotment Order*") is submitted on behalf of Capital Television Corporation ("CTC"), permittee of low power television station W44BP, Channel 44, Petersburg, Virginia. By this petition, CTC respectfully requests that the Commission reconsider its assignment of DTV Channel 44 to WCVW, Richmond, Virginia, because operation of DTV Channel 44 would force W44BP off the air. In support of this Petition, CTC asserts the following.

While CTC understands the Commission's policy to retain low power television as a "secondary" service, and that some LPTV stations will be unable to continue operations as a result of the transition to DTV, such displacement should be avoided when possible. WCVW in Richmond has been allotted Channel 44 as its paired DTV channel. This station is a mere 15 miles from CTC's,

has been allotted Channel 44 as its paired DTV channel. This station is a mere 15 miles from CTC's transmitter for station W44BP. As a result, WCVW will force W44BP to cease operation on Channel 44. (See the attached Engineering Statement prepared by Smith and Fisher). This harsh result could be avoided by assigning Channel 28 to WCVW instead of Channel 44, thereby avoiding the displacement of any LPTV or translator facilities. Channel 28 has been identified as available for DTV operations in this market, according to an MSTV/NAB computer study entitled "Alternative DTV Channel Assignments in the Continental United States."

Since the Commission has not yet released its interference rules in OET Bulletin No. 69, CTC's engineer has been unable to conduct a comprehensive study of the interference characteristics of DTV operations on Channel 28 in Richmond. As a result, further study of this proposed alternate channel may be required. However, the Commission has expressed the goal of minimizing the impact of the DTV transition on the LPTV and television translator segment of the industry, and adoption of this proposal by finding an alternate DTV channel for assignment to WCVW would help the Commission to accomplish its goals.

Therefore, Capital Television Corporation respectfully requests that the Commission reconsider its allotment of Channel 44 as the DTV channel assigned to WCVW in Richmond in order to protect LPTV service in the area.

Respectfully submitted this 13th day of June, 1997.

CAPITAL TELEVISION CORPORATION

By: 

Wade H. Hargrove

Mark J. Prak

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

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Raleigh, N.C. 27602

Counsel to Capital Television Corporation

SMITH AND FISHER

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of CAPITAL TELEVISION CORPORATION ("CTC"), permittee Low-Power Television Station W44BP, Channel 44, Petersburg, Virginia, in support of its Petition for Reconsideration of the Commission's *Sixth Report and Order* in MM Docket No. 87-268 concerning the implementation of digital television (DTV) service.

In this proceeding the FCC assigned DTV channels to all eligible full-service television stations in the United States. However, in doing so, the Commission assigned DTV Channel 44 to WCVW, Richmond, Virginia. This station is 15 miles from the W44BP transmitter site. At such distance W44BP will cause interference to and receive interference from DTV WCVW. As a result, WCVW will force W44BP to cease operation on Channel 44. Should no alternative LPTV channel be available in Petersburg, W44BP will have to shut down entirely.

There do appear to be alternative DTV channels that could be assigned to WCVW. According to an MSTV/NAB computer study, "Alternative DTV Channel Assignments in the Continental United States," dated May 28, 1997, DTV Channel 28 could be assigned to this Richmond station without displacing any LPTV or TV translator facility and without affecting the rest of the FCC's DTV Table of Allotments. Further, the MSTV/NAB study identified several other alternative channels for WCVW.

It must be noted that we did not conduct a detailed study of alternative DTV Channel 28 with respect to replication of NTSC coverage, nor did we calculate interference areas between and among DTV and NTSC facilities, since the complex computer software that

SMITH AND FISHER

the FCC used to generate its proposed Table of Allotments is not accessible to the public. Therefore, further study of CTC's proposed alternative allotment may be required, or another alternative channel may be found to be a better substitute allotment than Channel 28.

For now, based upon the information at hand, CTC requests that the Commission assign DTV Channel 28 to WCVW, Richmond, Virginia. This action is clearly in the public interest, since it protects the viewers of W44BP from the loss of valued programing in Petersburg, and at the same time assists the FCC's implementation of the new DTV service in Richmond. The Commission has stated that a goal of this proceeding is to minimize the impact of DTV on the LPTV and television translator segment of the broadcasting industry. Adoption of this alternative channel for WCVW would do just that.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'K. T. Fisher', with a long horizontal line extending from the bottom right.

KEVIN T. FISHER

June 11, 1997